

## § 256.9

## 49 CFR Ch. II (10–1–02 Edition)

subsection 4(i)(2) of the Act, may be expended for the following project costs incurred after the date of final project approval:

(1) Acquisition or long-term lease of real property or other property interests, including air rights, subterranean rights, or easements, where necessary for project implementation;

(2) Final architectural and engineering construction documentation, including all necessary plans, specifications, detailed cost estimates, and implementation schedules; and

(3) Construction, which may include, but is not limited to:

(i) Complete rehabilitation and refurbishment of the interior and exterior of the structure;

(ii) Provision of necessary public service facilities;

(iii) Structural modifications and minor additions necessary to permit the development of (A) improved rail passenger facilities, (B) intercity bus terminal and docking facilities, (C) adequate facilities for local mass transit, and (D) parking and access for automobiles and bicycles; and

(iv) Provisions for accommodating major tenants and concessionaires such as airline ticket offices, rent-a-car offices, and other transportation service facilities.

(b) *Preservation funds.* Federal financial assistance under subsection 4(i)(3) of the Act, for the preservation of a railroad passenger terminal which has a reasonable likelihood of being converted or otherwise maintained, may be expended for costs incurred after the date of project approval which are necessary to maintain (and prevent the demolition, dismantling, or further deterioration of) a railroad passenger terminal pending the completion of project planning, for a period not to exceed five years.

(c) *Planning funds.* Federal financial assistance granted under subsection 4(i)(5) of the Act for the development of plans for the conversion of a railroad passenger terminal into an intermodal passenger terminal, which may incorporate civic and cultural activities where feasible, may be expended for the following project costs if incurred within two years after project approval:

(1) Cost of a study or studies to:

(i) Assess the need for and the feasibility of converting an existing railroad passenger terminal into an intermodal passenger terminal which may incorporate civic and cultural activities where feasible;

(ii) Develop a fiscal plan and agreements for the plan's implementation; and

(iii)(A) Relate the project to other transportation priorities in the area; and

(B) Evaluate alternate means of providing needed intermodal passenger services within the community.

(2) Costs of preparation of preliminary architectural and engineering design documents for the project, including:

(i) Plans, sections, and sketches illustrating the functional as well as preservation aspects of the recommended development;

(ii) Assessment of the condition of existing structural and utilities systems and requirements for their improvement;

(iii) Outline specifications and preliminary estimates of project costs; and

(iv) Required environmental impact reviews and analyses.

(d) *Federal share.* The Federal share of any project under this part shall not exceed 80 percent of the total allowable project costs. The non-Federal share may not be augmented by any Federal funds, directly or indirectly, unless the funds are provided through a Federal program which specifically authorizes the augmentation of a non-Federal share of a federally-assisted program with such funds.

[40 FR 29080, July 10, 1975, as amended at 43 FR 21887, May 22, 1978; 44 FR 21647, Apr. 11, 1979]

## § 256.9 [Reserved]

## § 256.11 Applications.

(a) *Incorporation by reference in application of previously submitted information or material.* Any information or material of any kind which has been submitted by an applicant need not be resubmitted if the prior submission is identified and incorporated by reference in the application. Where the

prior submission is in need of any changes of any kind, the changes may be submitted provided the prior submission is identified and incorporated by reference with the changes. Any assurance, certification, or affirmation previously made by the applicant, in connection with a prior submission, must be reaffirmed by the applicant when any identification and incorporation by reference of previously submitted materials is made.

(b) *Pre-applications for demonstration funds.* In accordance with appendix M of Office of Management and Budget Circular A-102, applicants shall use the pre-application form directed for use for construction, land acquisition, and land development projects when applying for demonstration funds under this program. Applicants shall include under Part IV (Program Narrative) of the pre-application form:

(1) A statement of whether the railroad passenger terminal is listed in the National Register;

(2) A statement as to the interest and anticipated cooperation of the terminal owner and the relevant transportation companies;

(3) Where the applicant contemplates using funds it has received or will receive from other Federal programs for the planning or preservation stage of the projects, a brief description of the sources, and total anticipated amount of such funds; and

(4) A breakdown of the total allowable project costs.

(c) *Applications for demonstration funds.* Upon notification of the approval of the pre-application, applicants shall submit a final application for demonstration funds using the Federal Assistance Application for Construction Programs in accordance with appendix M of Office of Management and Budget Circular A-102. Applicants shall include under Part IV (Program Narrative) of the form:

(1) A list of all organizations which will participate in the planning, implementation, or operation of each project, along with a discussion of the role of each organization;

(2) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(3) A summary of each proposed use of the intermodal passenger terminal for a civic or cultural activity;

(4) A description and documentation of existing or potential markets for interline intermodal service making use of the project facility, and of any changes in existing services which must be provided to achieve this potential;

(5) The proposed period during which the project will be evaluated to determine whether it has achieved the goals set forth in § 256.13(b);

(6) A detailed description of the rail passenger terminal (including where applicable the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(7) Evidence that the architectural integrity of the railroad passenger terminal will be preserved;

(8) A detailed estimate of the total allowable project costs, listing and identifying each cost to the maximum possible extent;

(9) Evidence of the applicant's ability and intent to furnish its share of the total allowable costs;

(10) Evidence that the applicant has established, in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(11) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(12) A description of the proposed methods of monitoring and evaluating the demonstration;

(13) Copies of the following: Preliminary architectural and engineering design documents, plans, sections, sketches, and outline specifications;

(14) A proposed draft of an environmental impact statement, including documentation that the project includes all possible planning to minimize harm to the historic nature of the facility as required by section 4(f) of

the Act (49 U.S.C. 1653(f)), to be reviewed, analyzed and used by the Administrator in preparation of a final Environmental Impact Statement under Department of Transportation Order 5610.IB (39 FR 35234, September 30, 1974);

(15) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(16) Assurances that the applicant will comply with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964 42 U.S.C. 2000d *et seq.*, and 49 CFR part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803), and 49 CFR part 265;

(iii) Executive Order 11246, as amended (30 FR 12319, 32 FR 14303) and 41 CFR 60–4, as amended (43 FR 14888, Apr. 7, 1978) which require equal employment opportunity in federally-assisted construction programs.

(iv) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 49 CFR part 25;

(v) 42 U.S.C. 4151 *et seq.*, with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(vi) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to non-discrimination under Federal grants;

(vii) The Hatch Act, 5 U.S.C. 1501 *et seq.*, which limits the political activities of employees; and

(viii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, and 31 CFR part 51.

(17) Evidence of all legal commitments including, but not limited to, operating agreements and right-of-way leases which have been obtained from private carriers, public transportation operating agencies, and other entities as appropriate, to assure continued operation of the transportation services during the evaluation period;

(18) Evidence (including, but not limited to, copies of leases, deeds, easements, certificates of title, and mortgage agreements) that the applicant's property interest in the railroad passenger terminal is or will be, at the

commencement of the project, sufficient for the applicant to implement the project;

(19) A summary of each proposed agreement permitting the use of any portion of the intermodal passenger terminal for commercial purposes other than the provision of transportation services (if a standard form contract is to be used, applicant may submit a copy of the standard contract, a list of parties with whom it has contracted, and a list of any terms not common to the standard contract);

(20) An opinion of the applicant's legal counsel advising that (i) counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 4(i) of the Act, as amended (49 U.S.C. 1653(i)); (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts; (ii) the applicant is authorized to make the application including all certifications, assurances, and affirmations required; (iii) the applicant has the requisite authority to carry out the actions proposed in the application and to fulfill the obligations created thereby, including the obligation to pay a share of the costs of the proposed project; (iv) the applicant has the authority to enter into all of the legal commitments referred to in paragraph (c)(16) of this section and that these commitments are legal and binding by their terms; and (v) the applicant's property interest in the railroad passenger terminal is sufficient for the applicant to implement the project;

(21) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located pursuant to 23 U.S.C. 104(f)(3);

(22) A certification by the applicant that, in accordance with Office of Management and Budget Circular A–95 (41 FR 2052, Jan. 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the

## Federal Railroad Administration, DOT

## § 256.11

appropriate State and regional agencies and clearinghouses; and

(23) Any other information that the Administrator may require.

(d) *Applications for preservation funds.* Each application for preservation assistance shall include:

(1) The complete name and principal business address of the applicant;

(2) The complete name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A list of all organizations which will participate in the planning, implementation, or operation of each project, and a discussion of each organization's role;

(4) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(5) A detailed description of the rail passenger terminal (including where applicable the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(6) Documentation of the threat to the existing terminal, involving demolition, dismantling, or further deterioration of the terminal and the causes thereof;

(7) Evidence that the planning for conversion or reuse of the terminal has commenced and that it is proceeding in a timely manner, including a copy of the projected planning schedule;

(8) A proposed draft of an environmental impact statement or a negative declaration, including documentation that the project includes all possible planning to minimize harm to the historic nature of the facility as required by section 4(f) of the Act, 49 U.S.C. 1653(f), to be reviewed, analyzed, and used by the Administrator in preparation of a final Environmental Impact Statement or Negative Declaration as required by Department of Transportation Order 5610.1B (39 FR 35234, Sept. 30, 1974);

(9) A detailed estimate of the total allowable project costs, listing and identifying all anticipated preservation costs to the maximum extent possible;

(10) The total amount of Federal assistance requested;

(11) Evidence of the applicant's ability and intent to furnish its share of the total allowable project costs;

(12) Where the applicant contemplates using funds which it has received or will receive from other Federal programs for the planning or demonstration stage of the project, a brief description of the sources, use and total anticipated amount of such funds;

(13) Evidence that the applicant has established in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of the Federal funds;

(14) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(15) Evidence of substantial local public and/or private interest in organizing a project to convert the existing railroad passenger terminal to an intermodal passenger terminal, which may include use for civic or cultural activities;

(16) An opinion of the applicant's legal counsel stating that:

(i) Counsel is familiar with (A) the applicant's corporate or other organizational powers; (B) section 4(i) of the Act, as amended (49 U.S.C. 1653(i)), (C) the other Acts referred to in these regulations; (D) and any regulation issued to implement those Acts;

(ii) The applicant is authorized to make this application including all certifications, assurances, and affirmations required;

(iii) The applicant has the requisite authority to carry out the actions proposed in its application and to fulfill the obligations created thereby, including the obligation to pay a share of the cost of the proposed project, and

(iv) The applicant is empowered, for an interim period pending the formulation of plans for the conversion of the existing railroad passenger terminal, to maintain the terminal building and prevent its demolition, dismantling, or further deterioration;

(17) For projects located in urbanized areas, as defined by the Bureau of the

Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located, pursuant to 23 U.S.C. 104(f)(3);

(18) A certification by the applicant that, in accordance with Office of Management and Budget Circular A–95 (41 FR 2052, Jan. 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses;

(19) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(20) Assurances that the applicant will comply with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and 49 CFR part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(iii) Executive Order 11246, as amended (30 FR 12319, 32 FR 14303) and 41 CFR 60–4, as amended (43 FR 14888, Apr. 7, 1978), which requires equal employment opportunity in federally-assisted construction programs.

(iv) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 49 CFR part 25;

(v) 42 U.S.C. 4151 *et seq.*, with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(vi) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to non-discrimination under Federal grants;

(vii) The Hatch Act, 5 U.S.C. 1501 *et seq.*, which limits the political activities of employees; and

(viii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, and 31 CFR part 51; and

(21) Any other information that the Administrator may require.

(e) *Applications for planning funds.* Each application for planning assistance shall include:

(1) The complete name and principal business address of the applicant;

(2) The name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A list of all organizations which will participate in the planning, implementation, or operation of each project, and a discussion of each organization's role;

(4) A preliminary statement of work, and a detailed estimate of all planning costs broken down by project task;

(5) A proposed schedule for the planning process;

(6) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(7) A detailed description of the rail passenger terminal (including, where applicable, the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(8) The total amount of Federal assistance requested;

(9) Evidence of the applicant's ability and intent to furnish its share of the total allowable project costs;

(10) Where the applicant contemplates using funds which it has received or will receive from other Federal programs for the preservation or demonstration stages of the project, a brief description of the sources, use, and anticipated amount of such funds;

(11) Evidence that the applicant has established, in accordance with Attachment G of Office of Management and Budget Circular A–102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(12) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(13) An opinion of the applicant's legal counsel stating that:

## Federal Railroad Administration, DOT

## § 256.11

(i) Counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 4(i) of the Act, as amended, 49 U.S.C. 1653(i); (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts;

(ii) The applicant is authorized to make this application including all certifications, assurances, and affirmations required; and

(iii) The applicant has the requisite authority to carry out the actions proposed in its applications and to fulfill the obligations created thereby, including the obligation to pay a share of the costs of the proposed project;

(14) A proposed schedule for the implementation of the applicant's completed designs and plans;

(15) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located, pursuant to 23 U.S.C. 104(f)(3);

(16) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, Jan. 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses;

(17) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(18) Assurances that the applicant will comply with the following Federal laws, policies, regulations, and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* and 49 CFR part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(iii) Title II and title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.* and 49 CFR part 25;

(iv) 42 U.S.C. 4151 *et seq.*, with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(v) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to non-discrimination under Federal grants;

(vi) The Hatch Act, 5 U.S.C. 1501, *et seq.*, which limits the political activities of employees; and

(vii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, and 31 CFR part 51;

(19) A statement that the applicant is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located.

(20) An assurance by the applicant that the designs and plans for the conversion to an intermodal passenger terminal, including any use for civic or cultural activities, will be completed within two years following the approval of the application for Federal financial assistance;

(21) A description of how the applicant can incorporate features which appear reasonably likely to attract private investors willing to share in the implementation of the planned conversion and its subsequent maintenance and operation;

(22) An environmental assessment using an interdisciplinary approach in identifying the type, degree, effect, and probability of occurrence of potential environmental impacts due to the conversion to an intermodal passenger terminal; and

(23) Any other information that the Administrator may require.

(f) *Execution and filing of applications.*

(1) The original application shall bear the date of execution and be signed by the Chief Executive Officer of the applicant or by the applicant, where the applicant is an individual. Each person required to execute an application shall execute a certificate in the form of appendix A hereto.

(2) The original application and two (2) copies shall be filed with the Federal Railroad Administrator, Department of Transportation, 400 7th Street SW., Washington, DC 20590. Each copy shall show the dates and signatures

## § 256.13

that appear in the original and shall be complete in itself.

(3) Pre-applications for demonstration funds must be submitted to the Administrator no later than August 21, 1978. Applications for planning, preservation and demonstration funds must be submitted to the Administrator no later than September 19, 1978. Applications received after these deadlines will not be considered for funding, unless all funds are not granted to applicants who have met the application deadline.

[43 FR 21887, May 22, 1978]

### § 256.13 Review and approval of applications.

(a) *Pre-applications.* Pre-applications for demonstration funds shall be reviewed by the Administrator in consultation with the Chairman and the Council.

(b) *Applications.* The Administrator shall review applications in consultation with the Chairman and the Council and select and monitor projects most likely to accomplish the following goals:

(1) Demonstrate the capabilities of intermodal terminals to provide a more effective means of passenger interchange between various modes of transportation;

(2) Demonstrate the advantages of joint use terminal facilities to carriers;

(3) Demonstrate a more comprehensive and effective network of energy efficient surface common carrier transportation services through improving coordinated interline intermodal exchange at selected intermodal passenger terminals distinguished by coordinated information systems, schedules, and through ticketing and baggage handling;

(4) Evaluate user response to such coordinated interline intermodal transportation services, and to joint carrier use of terminal facilities;

(5) Demonstrate the potential of underutilized railroad passenger terminals of historical and architectural distinction for improving intermodal passenger transportation services and for providing an appropriate focal point for civic and cultural activities;

(6) Stimulate local public and private investment, by transportation carriers

## 49 CFR Ch. II (10-1-02 Edition)

and others, in improved intercity and local public transportation facilities and services;

(7) Encourage the preservation of railroad passenger terminals pending the formulation of plans for reuse; and

(8) Encourage the development of plans for the conversion of railroad passenger terminals into intermodal passenger terminals, which may incorporate civic and cultural activities where feasible.

(c) *Preferential consideration.* In reviewing applications for planning funds, the Administrator shall give preferential consideration to applicants whose completed designs and plans will be implemented and effectuated within three years after the date of completion.

(d) *Approval within 90 days.* The Administrator will approve or deny each application within 90 days of the submission dates set forth in § 256.11(f)(3) and the Administrator will promptly notify in writing each applicant whose application has been approved.

[40 FR 29080, July 10, 1975, as amended at 43 FR 21890, May 22, 1978; 44 FR 21647, Apr. 11, 1979]

### § 256.15 Disbursement of financial assistance.

(a) *Grant agreement.* After receipt, review, and approval of an application, the Administrator will enter into a grant agreement with an applicant for the Federal share of the total allowable project costs. The terms and conditions of payment of the Federal share shall be set forth in the grant agreement.

(b) *Record retention.* Each recipient of financial assistance under this part shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(c) *Audit and examination.* Until the expiration of three years after the completion of the project or undertaking